

# Terms and Conditions

## 1) Applicability

a. **ALL PURCHASES OF PRODUCTS AND SERVICES FROM SCIENETIX, LLC & ITS SUBSIDIARIES (“Scienetix”) ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS (“Terms”), AND BY PURCHASING ANY PRODUCTS & SERVICES (“Products”), THE CUSTOMER (“Customer”) AGREES TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS, UNLESS EXPLICITLY AGREED OTHERWISE IN A WRITTEN CONTRACT.**

## 2) Payment Details

Payment terms are Due on Receipt unless otherwise indicated in a Scienetix proposal or quote or in a written contract signed by both parties covering the sale of the Products.

## 3) Pricing

a. All prices are in US Dollars and checks are to be drawn on a US bank. Customer is responsible for all wire fees. Prices are subject to change without notice. Duties, taxes, and fees are not included and are the sole responsibility of the Customer.

b. For custom projects and services, in the event that a procedure fails to provide adequate quantity or quality of an order, charges may still apply but no extra charges will be added without prior approval.

## 4) Taxes

Prices may not include any governmental taxes (including, without limitation, sales, use, excise, withholding, consumption, or VAT), or other duties imposed by governmental authorities that are applicable to the import or purchase of the Product(s), and the Customer shall bear all such taxes and duties.

## 5) Limitations on Warranty or Sale and Indemnification

a. **Limited Warranty:** Subject to the limitations in this paragraph, Scienetix warrants that Products shall perform satisfactorily and be free of defect if used as intended and stored as directed.

### b. **Product Guarantee and Replacement Policy**

I. Scienetix guarantees the highest quality and performance of all our qPCR assays. These assays are designed and verified using up-to-date genomic information and gold-standard TaqMan Assay chemistry, intended to detect clinically relevant microorganisms. However, qPCR assays are not tested for detecting all subspecies or strains. Each assay's sensitivity is

verified to detect between 1E+06 to 1E+01 copies of the purified target in the qPCR reaction. Results beyond this limit may include false positives or negatives.

- II. Scienetix agrees to replace or provide credit equal to the purchase price for any product that fails to meet the stated product specifications. Clients must obtain written authorization for credit or replacement. Please contact us at [contact@scienetix.com](mailto:contact@scienetix.com) if you are unsatisfied with the product's performance.
  - III. Replacement or credit claims must be submitted on or before the product's expiry date or its first use, whichever comes first. Detailed terms and conditions can be found at <https://scienetix.com>.
  - IV. Scienetix agrees to replace or give credit equal to the purchase price for any Product that fails to meet stated specifications of the Product. Should any product fail to meet specifications and performance; within 21 days the customer must provide Scienetix with a completed customer service form that contains at a minimum the following information:
    - the product description, and the lot number;
    - the nature of the problem, and;
    - the number of Product units involved.
- c. No Product can be returned for credit or replacement without prior return authorization from Scienetix. Should any products arrive in a damaged condition, the carrier must note the condition on the delivery receipt. All claims for products damaged during shipment must be made to Scienetix within five (5) business days of receipt.
- d. No Product will be replaced or exchanged because Customer ordered the wrong Product. Scienetix shall only replace a Product or give credit pursuant to 5.b. and 5.c. referenced above.
- e. **SCIENETIX MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; AND (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.**
- f. **IN NO EVENT SHALL SCIENETIX HAVE ANY LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY SALE OR USE OF ANY PRODUCT, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, ANY LOST PROFITS OR REVENUE, OR ANY COSTS OF SUBSTITUTE GOODS OR SERVICES.**
- g. **THE EXCLUSIVE REMEDIES OF CUSTOMER UNDER THIS AGREEMENT ARE THE REPLACEMENT OF NONCONFORMING PRODUCTS.**
- h. **Indemnification:** Customer will, at its own expense indemnify, defend, or at its option, settle, any third party claim or action brought against Scienetix to the extent such claim results from: (i) any testing, research, development, or other use of a Product; and (ii) any negligence, misconduct, failure to comply with applicable law or regulation, product liability, personal injury, or death, in each case related to the use of any Product sold to Customer under this Agreement.

## **6) Shipping**

Scienetix shall deliver the Products using Scienetix standard methods for packaging and shipping. Customer acknowledges that final shipping costs may vary from the estimate and additional shipping charges may apply. All Products and other materials provided by Scienetix are delivered “Ex Works” (Incoterms 2010) at Scienetix facilities. Scienetix will designate the freight carrier and will add to the invoice for any order the corresponding reasonable freight charges incurred in shipping to the location identified as the “ship to” address. Customer also is responsible for all other charges and costs, including without limitation, handling, insurance (if any), sales or value added taxes, and export and import clearance. Title to the Products will pass to Customer when Scienetix delivers the Products to the designated carrier at the Scienetix designated facility.

## **7) Compliance with Law**

The customer will use the above purchased material in conformance with all local, regional, providential, state, and/or federal regulations, ordinances, or accreditation requirements and your institution's standard procedures. Customer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Customer shall comply with all export and import laws of all countries involved in the sale of the Products under this Agreement or any resale of the Products by Customer. Customer assumes all responsibility for shipments of Products requiring any government import clearance. Scienetix may terminate a written contract with Customer if any governmental authority imposes antidumping or countervailing duties or any other penalties on Products.

## **8) Authorized Uses**

Unless otherwise expressly indicated in a Certificate of Analysis, label or other documentation accompanying the Products, the Products are intended for research use only and subject in each and every case to the condition that such sale does not convey any license, expressly or by implication, to manufacture, duplicate or otherwise copy or reproduce any of the Products. It is solely the Customer's responsibility to determine whether any additional or third-party intellectual property or any other permissions rights for use or resale of the Products in any particular application or field of use. Customer acknowledges that the Products have not been tested by Scienetix for safety or efficacy and are not intended for human or animal testing, unless expressly stated in the label or other documentation accompanying the Products. Without limiting the foregoing restrictions, Customer warrants to Scienetix that should Customer use Products for any use other than research, Customer shall conduct all necessary tests, comply with all applicable regulatory requirements, issue all appropriate warnings and information to subsequent purchasers and/or users and be responsible for obtaining any required Intellectual Property rights. Customer represents and warrants to Scienetix that any Products purchased from Scienetix, and any final articles made from them are managed in accordance with and in compliance with all applicable federal, state, and local statutes, rules, regulations, ordinances, and orders.

## **9) Termination; Effect of Termination**

a. In addition to any remedies that may be provided under these Terms, Scienetix may terminate a written contract with Customer with immediate effect upon written notice to Customer, if Customer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

b. Neither the expiration nor the termination of a written contract with Customer shall affect any rights of Scienetix which shall have accrued prior to the date of such expiration or termination, and in the event of the termination hereof by Scienetix because of a breach by Customer, Scienetix shall retain its remedy for the breach of the a written contract with Customer or any unperformed portion. In particular, it is expressly agreed that the obligations regarding warranty,

indemnity, and confidentiality shall survive termination of a written contract with Customer. If a written contract with Customer is terminated after Scienetix has commenced performance on the development or manufacture of Product(s), Scienetix shall complete the work in process and Customer shall accept delivery and payment for the Product(s) and any manufactured, but unshipped Products(s).

## **10) Confidential Information**

All non-public, confidential or proprietary information of Scienetix, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Scienetix to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" may not be disclosed or copied unless authorized in advance by Scienetix in writing. Customer shall ensure all reasonable measures are taken to secure such confidential information so as to prevent any unauthorized disclosure, access, loss, alteration or destruction. Upon Scienetix request, Customer shall promptly return all documents and other materials received from Scienetix. Scienetix shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by Customer on a non-confidential basis from a third party.

## **11) Intellectual Property**

a. **Definitions:** i. "Intellectual Property" means all intellectual property and proprietary rights including, without limitation, all rights of inventorship and authorship, inventions, patents, patent applications, and know-how for any product, process, method, machine, manufacture, design, composition of matter, or any new or useful improvement thereof, as well as copyright, trademark, trade dress and service mark rights and all rights in trade secrets, computer software, data and databases, and mask works. ii. "Scienetix Property" means: (1) Intellectual Property incorporated into the Products or any deliverables other than the Customer Property; (2) Intellectual Property conceived, produced, or developed by Scienetix, whether directly or indirectly or alone or jointly with others; and (3) creations, derivatives and inventions that are otherwise made by Scienetix through the use of Customer Property. iii. "Customer Property" means the biological materials supplied by Customer.

b. The Customer Property shall remain the sole property of Customer. The Customer grants Scienetix a royalty free, worldwide, nonexclusive, perpetual license to use the Customer Property unless the Customer expressly opts out of the license on the Quotation.

c. Scienetix Property shall be the sole property of Scienetix. Nothing shall prevent Scienetix from enforcing its intellectual property rights against Customer.

## **12) Force Majeure**

Scienetix shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached a written contract with Customer, for any failure or delay in fulfilling or performing any term of a written contract with Customer when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Scienetix including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, governmental acts or restrictions, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

## **13) Assignment**

Customer shall not assign any of its rights or delegate any of its obligations under a written contract with Scienetix without the prior written consent of Scienetix. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under a written contract with Scienetix.

## **14) Governing Law**

All matters arising out of or relating to a written contract with Customer is governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Texas.

## **15) Submission to Jurisdiction**

Any legal suit, action or proceeding arising out of or relating to a written contract with Customer shall be instituted in the courts of the State of Texas located in the County of Smith, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

## **16) Notices**

All notices, request, consents, claims, demands, waivers, and other communications shall be in writing and addressed to the parties at the addresses set forth in a written contract with Customer. All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). A Notice is effective only upon receipt of the receiving party.

## **17) Severability**

If any term or provision of a written contract with Customer is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the written contract or invalidate or render unenforceable such term or provision in any other jurisdiction.

## **18) Survival**

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of a written contract with Customer.

## **19) Prohibition on Resale**

Customer acknowledges and agrees that the Product(s) are being developed and manufactured by Scienetix for internal consumption by the Customer and are not being manufactured for resale to the general public. In the event the Customer resells the Products (other than for sale to a subsidiary or affiliate of the Customer), Scienetix shall have the right, at its option and sole discretion, to (a) terminate a written contract with Customer, or (b) elect to continue the written contract and impose a royalty equal to [15%] of the sale price of the Product(s) at the Customer's sale price to the general public. Customer hereby agrees to remit such royalty to Scienetix no later 30 days following each calendar quarter in which such Product(s) were sold. The royalty payment will be accompanied by a statement setting forth the number of Products sold, type of Products, the sales price to third parties, and the calculation of the royalty payment. Customer hereby grants Scienetix the right each calendar quarter to inspect the books and records of the Customer during regular business hours to confirm the calculation of the royalty payment.

## **20) Disputes. Dispute Resolution**

a. **General:** Scienetix desires to avoid and to settle without litigation any controversy, claim or dispute arising out of or relating in any way to a written contract between Scienetix and Customer. Accordingly, Customer agrees to engage in good faith negotiations to resolve any controversy, claim or dispute ("Dispute") and, upon failure to resolve the dispute, to utilize the mediation procedures described in Section (c) of this paragraph below as the exclusive method in which to resolve any such Dispute.

b. **Informal Resolution:** If there is a Dispute notice will be provided to the other party of the nature of and basis for the Dispute. Within thirty (30) days after such notice is given, the parties will meet and confer in good faith to attempt to resolve the Dispute described in the notice.

c. **Mediation:** In the event the parties are unable to resolve the Dispute or agree upon a mechanism to resolve such Dispute during the 30-day period provided for in Section (b) of this paragraph above, then the parties will use good faith efforts to resolve such Dispute through a non-binding mediation process agreed to by the parties. The mediation of the claim or dispute will be administered by one (1) mediator selected and agreed to by the parties. The mediation will be held in Smith County, Texas at a location selected by the mediator. The mediator's fees

and all other administrative costs and expenses related to the mediation will be shared equally by the parties, but each party will be responsible for its own legal fees and other costs and expenses related thereto. Notwithstanding the foregoing, either Party may apply to any court of competent jurisdiction for injunctive relief without breach of this section.